

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 299

Introduced by Assembly Member Brown

February 12, 2015

An act to add Article 7 (commencing with Section 116090.5) to Chapter 5 of Part 10 of Division 104 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 299, as amended, Brown. Public health: drownings.

Existing law establishes the State Department of Public Health in state government. Existing law vests within the department certain duties and powers to protect and preserve the public health. Existing law provides for the regulation of recreational water use, as specified, including, but not limited to, swimming pools and wave pools.

This bill would require the State Department of Public Health to create, by regulation, a submersion incident report form for the reporting of all statewide drownings or ~~near nonfatal~~ drownings, as specified. The bill would require the form to be used and completed by every local law enforcement entity, fire department, and any other first responder, as defined, for every drowning or ~~near nonfatal~~ drowning for which the entity, department, or first responder provides services or investigates *and for which a person is treated or hospitalized for respiratory distress*. The bill would require the form to be submitted to the ~~department, and as specified, department and each local county health department. The bill would require the department and those entities to compile specified data from those forms and to post that data annually on their Internet Web sites.~~

By imposing additional duties on local entities, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. This act shall be known and may be cited as the*
2 *Brandon Patrick Water Safety Act.*

3 ~~SECTION 1.~~

4 *SEC. 2. Article 7 (commencing with Section 116090.5) is added*
5 *to Chapter 5 of Part 10 of Division 104 of the Health and Safety*
6 *Code, to read:*

7
8 Article 7. Drownings
9

10 116090.5. (a) The department shall, by regulation, create a
11 submersion incident report form for the reporting of all statewide
12 drownings or ~~near nonfatal~~ drownings for use as required pursuant
13 to this section. The form shall, at a minimum, include all of the
14 following:

15 (1) The title, "Submersion Incident Report Form."

16 (2) A box to be filled in entitled, "Basic Incident Information"
17 to include the date of incident, time of incident, address of incident,
18 and type of dwelling. *For the "type of dwelling," the form shall*
19 *include an additional question as to whether the dwelling was a*
20 *"house, apartment, or other ____ (specify)."*

21 (3) A box to be filled in entitled, "Victim Information" to include
22 the age and gender of the victim, the victim's race or ethnicity,
23 where the victim was last seen, the estimated length of time
24 submersed, the type of clothing worn by the victim, ~~and whether~~
25 ~~alcohol or drug use was involved.~~ *whether a flotation device was*
26 *worn by the victim, and the circumstances that led to the drowning*

1 *or nonfatal drowning. For those “circumstances,” the form shall*
2 *include an additional question as to whether “drugs, alcohol,*
3 *trauma, a preexisting condition, or other_____ (specify)” led to,*
4 *or were involved in, the drowning or nonfatal drowning.*

5 (4) A box to be filled in entitled, “Water Source Information”
6 to include a description of the site of incident, water clarity, water
7 depth, water type, whether there were toys or objects in the water,
8 and, if applicable, whether the pool or spa was built before 1998.
9 *For the “water type,” the form shall include an additional question*
10 *as to whether the water type was a “pool, spa, lake, river, pond,*
11 *bathtub, ocean, or other_____ (specify).”*

12 (5) A box to be filled in entitled, “Adult Supervision” to include
13 a description of who the supervisor was at the time of, or prior to,
14 the incident, and whether a child protective services referral was
15 made. *For purposes of this paragraph, the form shall also include*
16 *the following:*

17 (A) *An additional question as to whether the supervisor at the*
18 *time of incidence was the victim’s “mother, father, babysitter,*
19 *relative, or other _____ (specify).”*

20 (B) *With regard to whether a child protective services referral*
21 *has been made, a “Yes or No” to be printed, for the person filling*
22 *out the form to circle.*

23 (C) *The question, “Was submersion witnessed?”*

24 (D) *The question, “Was there a trained lifeguard on duty?”*

25 (6) A box to be filled in entitled, “Barrier Information” to
26 include whether water barriers, other barriers, or an alarm were
27 present or activated and information on how the water was accessed
28 by the victim. *For purposes of this paragraph, the form shall also*
29 *include the following:*

30 (A) *The question, “Was there a working barrier?”*

31 (B) *The question, “Was there a secondary barrier in working*
32 *order around the water (or pool)?”*

33 (C) *The question, “Were there other barriers?”*

34 (7) A box to be filled in entitled, “Classes/Emergency
35 Preparation” to include whether rescue equipment was near the
36 water, whether cardiopulmonary resuscitation was performed and,
37 if so, by whom, whether the victim ever took swim classes, and
38 whether the victim was dead on the scene. *For purposes of this*
39 *paragraph, the form shall also include the following:*

40 (A) *The question, “Who pulled the victim out of the water?”*

1 (B) *The question, “Was CPR performed?”*

2 (C) *The question, “If CPR was performed, was the person CPR*
3 *trained?”*

4 (D) *The question, “If CPR was performed, what type of CPR*
5 *was performed? Chest compression only, rescue breathing only,*
6 *or both?”*

7 (b) (1) The form created pursuant to subdivision (a) shall be
8 used and completed by every local law enforcement entity, fire
9 department, and any other first responder *at the scene* for every
10 ~~drowning or near drowning~~ *person who is treated or hospitalized*
11 *for respiratory distress from submersion or immersion in liquid*
12 *for which the entity, department, or first responder provides*
13 *services or investigates. After completion, the form shall be*
14 *submitted to the department and to any other entity within the city,*
15 ~~county, or city and county that requires the collection of drowning~~
16 ~~information or near drowning information.~~ *the local county health*
17 *department. This form is not required for persons rescued and*
18 *released who do not have signs or symptoms of respiratory distress.*

19 (2) *Based upon the forms received pursuant to paragraph (1),*
20 *the department and each local county health department shall*
21 *compile and distribute statistical information on those drownings*
22 *and nonfatal drownings by posting that information on their*
23 *Internet Web sites on an annual basis by February 1 of each year.*

24 (c) The department shall make the form available on its Internet
25 Web site in a manner that allows every city, county, and city and
26 county to download the form and use it as their official form for
27 purposes of subdivision (b).

28 (d) Notwithstanding subdivision (c), every city, county, and
29 city and county may also affix its official logo to the form and its
30 official contact information, including, but not limited to, ~~phone~~
31 *telephone* number, facsimile number, or electronic mail address.

32 (e) For purposes of this section, the following ~~definitions~~ *terms*
33 shall have the following meanings:

34 (1) “Department” means the State Department of Public Health.

35 (2) “Drowning” *means the process of experiencing respiratory*
36 *impairment from submersion or immersion in liquid.*

37 ~~(2)~~

38 (3) “First responder” includes, but is not limited to, any entity
39 that arranges for, or provides, emergency medical services within
40 its boundaries, including ~~paramedic services~~ *lifeguards.*

1 (4) “*Nonfatal drowning*” means survival after drowning.

2 ~~SEC. 2.~~

3 SEC. 3. If the Commission on State Mandates determines that
4 this act contains costs mandated by the state, reimbursement to
5 local agencies and school districts for those costs shall be made
6 pursuant to Part 7 (commencing with Section 17500) of Division
7 4 of Title 2 of the Government Code.

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